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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

RENE HERNANDEZ, REBECCA HESTON,
JEFFREY STEINBERG, TRINITY GRAY, ERIC
EBANKS, and WILLIAM ROGERS, individually
and on behalf all others similarly situated,

Plaintiffs,

v.

MERRILL LYNCH & CO., INC.; MERRILL
LYNCH, PIERCE, FENNER & SMITH, INC.,
and BANK OF AMERICA CORPORATION,

Defendants.

No. 11 Civ. 8472 (KBF) (DCF)

**NOTICE OF MOTION FOR CERTIFICATION OF THE SETTLEMENT CLASS,
FINAL APPROVAL OF CLASS ACTION SETTLEMENT,
AND APPROVAL OF THE FLSA SETTLEMENT**

For the reasons set forth in the Memorandum of Law in Support of Plaintiffs' Motion for Certification of the Settlement Class, Final Approval of the Class Action Settlement, and Approval of FLSA Settlement ("Plaintiffs' Motion for Final Approval"), and in the Declaration of Justin M. Swartz in Support of Plaintiffs' Motion for Final Approval ("Swartz Declaration"), and the supporting exhibits attached thereto, Plaintiffs respectfully request that the Court enter an Order:

- (1) certifying the following settlement class under Federal Rule of Civil Procedure 23(a) and (b)(3) for purposes of effectuating the settlement:
- all current and former FSAs employed by Defendants in call centers in the State of New Jersey between January 31, 2010 and October 31, 2012.
- (2) granting final approval of the Joint Stipulation of Settlement and Release, attached as Exhibit A to the Swartz Declaration;
- (3) granting final approval of the FLSA Settlement; and
- (4) granting any other relief that the Court deems just and proper.

* * *

Plaintiffs have contemporaneously submitted a Proposed Order, attached hereto as **Exhibit A**, for the Court's convenience.

Dated: March 6, 2013
New York, New York

Respectfully submitted,

By: /s/ Justin M. Swartz
Justin M. Swartz

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***Attorneys for Plaintiffs and the Class and
Collective***